

Assembly Joint Resolution No. 12

RESOLUTION CHAPTER 101

Assembly Joint Resolution No. 12—Relative to taxation of corporate income sheltered in offshore tax haven jurisdictions.

[Filed with Secretary of State August 23, 2010.]

LEGISLATIVE COUNSEL’S DIGEST

AJR 12, Block. Offshore tax haven jurisdictions.

This measure would request that the President and the Congress of the United States enact legislation that closes the corporate federal tax loopholes currently allowing the sheltering of income in offshore tax haven countries, and, instead, promotes transparency, cooperation, and tax compliance.

WHEREAS, In bad economic times, states are forced to cut essential services or raise taxes in order to balance their budgets, and recapturing lost revenues otherwise due to a state is one mechanism by which government can reduce painful cuts without raising new taxes; and

WHEREAS, A United States corporation is taxed on all of its income, regardless of source, and is allowed a credit for any taxes paid to a foreign country on its foreign-source income; and

WHEREAS, A United States corporation can operate globally in foreign countries directly through a branch or indirectly through its ownership in a foreign subsidiary; and

WHEREAS, Jurisdictions listed as “tax havens,” some of which have no or nominal taxes, or financial privacy jurisdictions have been identified on reports prepared by the Organization for Economic Cooperation and Development (OECD), National Bureau of Economic Research (NBER), and other sources; and

WHEREAS, The United States Department of the Treasury has found that some United States corporations have aggressively moved income to offshore jurisdictions to avoid United States taxes because income that should properly be attributed to activities in the United States is being attributed to those tax haven countries; and

WHEREAS, The United States Senate Permanent Subcommittee on Investigations and other federal governmental entities have released findings regarding the growth of multinational corporations’ use of tax haven countries to shelter income that would otherwise be reported in the United States through use of related companies with little or no substantial economic presence or significant economic activity of the corporation in the tax haven country; and

WHEREAS, President Obama has voiced his support for efforts to combat offshore tax evasion and the United States Commissioner of Internal Revenue

has stated that the Internal Revenue Service (IRS) has made closing this particular loophole a top priority; and

WHEREAS, United States Senator Carl Levin introduced the Stop Tax Haven Abuse Act on March 2, 2009, to target offshore tax abuses that deny the United States Treasury an estimated \$100 billion in revenue each year, reward tax dodgers using offshore secrecy laws to hide legitimate taxable income from the United States, and burden other United States taxpayers who lawfully report their appropriately United States-sourced income; and

WHEREAS, Some states in the United States have enacted legislation to include the income and apportionment factors of affiliated corporations doing business in or having income derived from or attributed to a tax haven country; and

WHEREAS, California permits corporations that conduct business in the state to elect to calculate their corporate tax liability due to the state based on income only from sources within the United States and, as identified by federal officials, corporations are known to redirect income to foreign subsidiaries located in offshore tax haven countries to hide those corporations' true income and to avoid paying their fair share of state tax; and

WHEREAS, The Franchise Tax Board of California estimates that California's direct revenues lost to corporations sheltering funds in tax haven countries that should appropriately be sourced to activities in California is approximately \$130 million per year and growing; and

WHEREAS, Other states in the United States are losing revenues from the same offshore sheltering practices of corporations; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That in order to reduce anticipated cuts to services and lessen the need for increased taxes, the Legislature of the State of California respectfully requests the President and the Congress of the United States to enact legislation that closes the corporate federal tax loopholes currently allowing the sheltering of income in offshore tax haven countries, and, instead, promotes transparency, cooperation, and tax compliance; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.